

REMARKS

This paper is responsive to a Non-Final Office action dated November 1, 2006. Claim 11 was pending. Claims 1-39 were examined. The rejection of claim 11 is traversed and new claims 40-61 are added.

*Preliminary Amendment Filed with Application Papers*

Applicant respectfully calls attention to the Preliminary Amendment that accompanied the filing of the present application. That Preliminary Amendment cancelled all but claim 11 and included a claim of priority. Although the claim of priority was apparently recognized by the Office, the cancellation of claims was not. Accordingly, Applicant respectfully notes that, except for the rejection of claim 11, all current rejections are moot.

*Double Patenting Rejection*

Claim 1 stands rejected on the ground of non-statutory, obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,725,381 to Smith et al. (hereinafter, "*Smith '381*"). Claim 5 stands rejected on the ground of non-statutory, obviousness-type double patenting as being unpatentable over claim 5 of the *Smith '381* patent.

Claims 1 and 5 were cancelled by the above-mentioned Preliminary Amendment. Therefore, the double patenting rejections are moot.

*Claim Rejections Under 35 U.S.C. § 102*

Claims 1-4, 14-15, and 27-30 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U. S. Patent No. 6,898,577 to Johnson (hereinafter, "*Johnson*"). Claims 1-4, 14-15, and 27-30 were all cancelled by the above-mentioned Preliminary Amendment. Therefore, the rejections over *Johnson* are moot.

For avoidance of doubt, Applicant does not acquiesce in the Office's analysis of *Johnson* or in the Office's application of *Johnson's* teachings to claims of this application or those of the parent (the *Smith '381*). However, because the rejected claims were all previously cancelled,

Applicant reserves (except as to pending claim 11 discussed below) its arguments until such time (if ever) as *Johnson* is applied to the pending claims.

Claim Rejections Under 35 U.S.C. § 103

Claims 5-13, 18-26, and 31-39 stand rejected under 35 U.S.C. § 103(a) as being obvious over *Johnson*. Of those, claims 5-10, 12-13, 18-26, and 31-39 were all cancelled by the above-mentioned Preliminary Amendment. Therefore, except with respect to claim 11, the rejections over *Johnson* are moot.

Turning then to the rejection of claim 11, Applicant respectfully notes that *Johnson* involves authentication of a Web Customer by a Bank or (in the relied upon description of Fig. 2) by a Bank's Web Vendor using authentication information stored in a directory for the Web Customer. Accordingly, the authentication technique of *Johnson* presupposes that the Web Customer has a pre-existing account. Indeed, the description of *Johnson* (and in particular the portions of *Johnson* relied upon by the Office) makes it clear that authentication is by matching a Web Customer provided ID against that stored in an existing entry of a master list of already enrolled users.

In contrast, the method claimed in claim 11 (as amended) includes a messaging technique to facilitate a data transaction between a first and second user where there is no pre-existing account for the first user. Claim 11 has been amended to emphasize this point and is allowable for at least this reason. However, in addition, Applicant points out that in framing the § 103 rejection, the Office notes that *Johnson* does not disclose use of a message as claimed but takes the position that it would be obvious to modify *Johnson*'s technique to employ a message to the Web Customer. In particular, the Office states:

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to send a message to the web customer in the system of Johnson. One of ordinary skill in the art would have been motivated to do this because it would simplify the use of the system when the user knows the status of the request to purchase mostly when the bank has not authenticated the web customer.

Office Action, page 8.

Applicant respectfully disagrees. *Johnson's* system is premised on transactions in which a Web Customer logs into a website and seeks to access some functionality that requires authentication. At that point, authentication become an issue. Under the circumstances described, it would be exceedingly odd for the Bank (or its vendor) to send a message to the already enrolled Web customer with whom a current session already exists to solicit user account information. There is simply no reason for a person of skill in the art to modify the system described in *Johnson* to send a message to the Web customer. In short, sending a message would be superfluous in *Johnson's* system and a person of ordinary skill would not be inclined to add superfluous functionality. Therefore, even leaving aside the substantive difference between the method claimed in amended claim 11 and that described in *Johnson*, no *prima facie* case of obviousness exists and, for this reason as well, claim 11 is allowable over *Johnson*.

#### *New Claims*

In addition to pending claim 11, new claims 40-61 (including new independent claims 43, 54 and 60) have been added. Each of the new claims are believed to be allowable over the art of record. Examination and further consideration are respectfully requested.

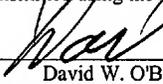
#### *Conclusion*

In summary, claims 11 and 40-61 are in the case. All pending claims are believed to be allowable over the art of record, and a Notice of Allowance to that effect is respectfully solicited. Nonetheless, if any issues remain that could be more efficiently handled by telephone, the Examiner is requested to call the undersigned at the number listed below.

**CERTIFICATE OF MAILING OR TRANSMISSION**

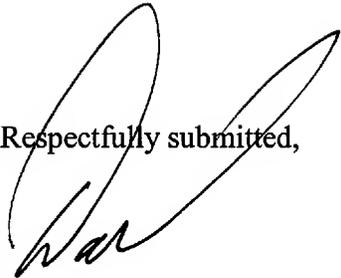
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David W. O'Brien

3-Apr-07  
Date

Respectfully submitted,



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